

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER



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ITEM

ORIGINAL  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION

2002 JUL 29 A 9:51

DATE: JULY 29, 2002

AZ CORP COMMISSION  
DOCUMENT CONTROL

DOCKET NO: T-03372A-97-0255

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Philip Dion.  
The recommendation has been filed in the form of an Order on:

INMARK, INC. dba PREFERRED BILLING  
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

AUGUST 7, 2002

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

AUGUST 20, 2002 and AUGUST 21, 2002

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission  
**DOCKETED**

JUL 29 2002

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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1  
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 WILLIAM A. MUNDELL  
4 CHAIRMAN

5 JIM IRVIN  
6 COMMISSIONER

7 MARC SPITZER  
8 COMMISSIONER

9 IN THE MATTER OF THE APPLICATION OF  
10 INMARK, INC. DBA PREFERRED BILLING FOR  
11 A CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY TO PROVIDE COMPETITIVE  
13 RESOLD INTEREXCHANGE  
14 TELECOMMUNICATIONS SERVICES, EXCEPT  
15 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03372A-97-0255

DECISION NO. \_\_\_\_\_

**ORDER**

16 Open Meeting  
17 August 20 and 21, 2002  
18 Phoenix, Arizona

19 **BY THE COMMISSION:**

20 Having considered the entire record herein and being fully advised in the premises, the  
21 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

22 **FINDINGS OF FACT**

23 1. On March 16, 1997, Inmark, Inc. dba Preferred Billing ("Applicant" or "Inmark")  
24 filed with the Commission an application for a Certificate of Convenience and Necessity  
25 ("Certificate") to provide competitive resold interexchange telecommunications services, except local  
26 exchange services, within the State of Arizona.

27 2. Applicant is a switchless reseller that purchases telecommunications services from a  
28 variety of carriers for resale to its customers.

3. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
telecommunications providers ("resellers") are public service corporations subject to the jurisdiction  
of the Commission.

4. Inmark has authority to transact business in the State of Arizona.

5. On March 7, September 7 and September 19, 2001, Inmark filed Affidavits of  
Publication indicating compliance with the Commission's notice requirements.

1           6.       On February 25, 2002, the Commission's Utilities Division Staff ("Staff") filed a Staff  
2 Report in this matter recommending approval of the application subject to certain conditions, and  
3 making other recommendations.

4           7.       In its Staff Report, Staff stated that based on information obtained from the Applicant,  
5 it has determined Inmark's fair value rate base is zero, and is too small to be useful in setting rates.  
6 Staff further stated that in general, rates for competitive services are not set according to rate of return  
7 regulation, but are heavily influenced by the market. Staff recommended that the Commission not set  
8 rates for Inmark based on the fair value of its rate base.

9           8.       Staff believes that Inmark has no market power and that the reasonableness of its rates  
10 will be evaluated in a market with numerous competitors. In light of the competitive market in which  
11 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed  
12 tariffs for its competitive services will be just and reasonable, and recommends that the Commission  
13 approve them.

14           9.       Staff recommended approval of Inmark's application subject to the following:

15                   (a)     The Applicant should be ordered to comply with all Commission rules, orders,  
16 and other requirements relevant to the provision of intrastate telecommunications  
17 service;

18                   (b)     The Applicant should be ordered to maintain its accounts and records as  
19 required by the Commission;

20                   (c)     The Applicant should be ordered to file with the Commission all financial and  
21 other reports that the Commission may require, and in a form and at such times as the  
22 Commission may designate;

23                   (d)     The Applicant should be ordered to maintain on file with the Commission all  
24 current tariffs and rates, and any service standards that the Commission may require;

25                   (e)     The Applicant should be ordered to comply with the Commission's rules and  
26 modify its tariffs to conform to these rules if it is determined that there is a conflict  
27 between the Applicant's tariffs and the Commission's rules;

28                   (f)     The Applicant should be ordered to cooperate with Commission investigations  
of customer complaints;

                  (g)     The Applicant should be ordered to participate in and contribute to a universal  
service fund, as required by the Commission;

1 (h) The Applicant should be ordered to notify the Commission immediately upon  
2 changes to the Applicant's address or telephone number;

3 (i) If at some future date, the Applicant wants to collect from its customers an  
4 advance, deposit or prepayment, it must file information with the Commission for  
5 Staff review. Upon receipt of such filing, Staff will review the information and  
6 forward its recommendation to the Commission;

7 (j) The Applicant's interexchange service offerings should be classified as  
8 competitive pursuant to A.A.C. R14-2-1108;

9 (k) The Applicant's maximum rates should be the maximum rates proposed by the  
10 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive  
11 services should be the Applicant's total service long run incremental costs of  
12 providing those services as set forth in A.A.C. R14-2-1109; and

13 (l) In the event that the Applicant states only one rate in its proposed tariff for a  
14 competitive service, the rate stated should be the effective (actual) price to be charged  
15 for the service as well as the service's maximum rate.

16 10. Staff further recommended that Inmark's Certificate should be conditioned upon the  
17 Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of  
18 an Order in this matter, or 30 days prior to providing service, whichever comes first.

19 11. Inmark's proposed tariff indicates that it does not intend to collect advances,  
20 prepayments or deposits from its customers.

21 12. Inmark provided its unaudited financial statements for the period ending June 30,  
22 2001. The financial statements list assets of \$62,266, equity of \$62,319 and a net income of  
23 \$433,398.

24 13. Staff recommended that if the Applicant fails to meet the timeframes outlined in  
25 Findings of Fact. No. 10, then Inmark's Certificate should become null and void without further  
26 Order of the Commission, and that no time extensions for compliance should be granted.

27 14. The rates proposed by this filing are for competitive services.

28 15. Staff's recommendations as set forth herein are reasonable.

16. Inmark's fair value rate base is zero.

### CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the

Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. Applicant's provision of resold interexchange telecommunications services is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for providing competitive resold interexchange telecommunications services in Arizona.

6. Staff's recommendations in Findings of Fact Nos. 7, 8, 9, 10 and 13 should be adopted.

7. Inmark's fair value rate base is not useful in determining just and reasonable rates for the competitive services it proposes to provide to Arizona customers.

8. Inmark's rates, as they appear in its proposed tariffs, are just and reasonable and should be approved.

## ORDER

IT IS THEREFORE ORDERED that the application of Inmark, Inc. dba Preferred Billing for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunications services, except local exchange services, is hereby granted, conditioned upon its compliance with the conditions recommended by Staff as set forth in Findings of Fact No. 10 above.

IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos. 7, 8, 9, 10, and 13 above are hereby adopted.

IT IS FURTHER ORDERED that Inmark, Inc. dba Preferred Billing shall comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 9 and 10 above.

IT IS FURTHER ORDERED that if Inmark, Inc. dba Preferred Billing fails to meet the timeframes outlined in Findings of Fact. No. 10 above, then the Certificate conditionally granted herein shall become null and void without further Order of the Commission.

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IT IS FURTHER ORDERED that Inmark, Inc. dba Preferred Billing shall not require its Arizona customers to pay advances, prepayments or deposits for any of its products or services.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2002.

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT

PD:mlj

1 SERVICE LIST FOR: INMARK, INC. DBA PREFERRED BILLING

2 DOCKET NO.: T-03372A-97-0255

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